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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/822,308	03/29/2001	Usman A.K. Sorathia	82,222	7684

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Naval Surface Warfare Center
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EXAMINER

FEELY, MICHAEL J

ART UNIT

PAPER NUMBER

1712

DATE MAILED: 11/08/2002

13

Please find below and/or attached an Office communication concerning this application or proceeding.

72-13

Advisory Action

Application No.

09/822,308

Applicant(s)

SORATHIA, USMAN A.K.

Examiner

Michael J Feely

Art Unit

1712

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 October 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 2,7,9,12-14, and 16: 35 USC 112 2nd; 5 and 11: 35 USC 103.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____.

Continuation of 2. NOTE:

The proposed changes to claims 2, 9, 12, 13, and 16 would be rejected under 35 USC 112, 2nd, for omitting essential steps. In claims 2, 9, 12, and 13, the language, "introducing a fire resisting agent to the barrier layer after formation thereof" is problematic because it is unclear if "formation thereof" refers to formation of the fire resisting agent or the formation of the barrier. In claim 16, the language, "introducing a fire resisting agent by in-situ infusion into the barrier layer after said formation thereof" is problematic because it is unclear if "formation thereof" refers to the formation of the fire resisting agent or the formation of the barrier. Based on the previous version of the claims, it appears that this language is referring to the formation of the barrier. The following suggested changes would overcome this 112 2nd issue:

Claims 2, 9, 12, and 13: substitute "introducing a fire resisting agent to the barrier after formation thereof" with -introducing a fire resisting agent to the barrier after formation of the barrier.-

Claim 16: substitute "introducing a fire resisting agent by in-situ infusion into the barrier layer after said formation thereof" with -introducing a fire resisting agent by in-situ infusion into the barrier layer after formation of the barrier layer.-

It should be noted that this problematic language was also present in the previously proposed After Final amendment. The new proposed changes have properly corrected the problem regarding the language "during fabrication"; however, the new proposed changes have failed to address the problem regarding the language "formation thereof".

It should also be noted that the final rejection of pending claims 2, 7, 9, 12-14, and 16 was made over a 112 2nd paragraph rejection, and the final rejection of pending claims 5 and 11 was made over a 103 rejection. Applicant has suggested that claims 2, 9, 12-14, and 16 would be allowable if the 112 rejections were overcome; however, such allowability has never been suggested by the Examiner. The final rejection of claims 2, 7, 9, 12-14, and 16 was made because these claims were written in incomplete form, depending on a cancelled base claim. Applicant had cancelled independent claims 1 and 15 and dependent claims 3, 4, and 10 in paper #8; however, Applicant failed to cancel dependent claims 2, 7, 9, 12-14, and 16. In the previous After-Final Amendment and in the current After-Final amendment, Applicant has proposed changes to these claims that reintroduce the language of claim 1 into claims 2, 9, 12, and 13 and the language of claim 15 into claim 16. Based on these changes, Applicant has stated that these claims would be allowable because an art rejection was not applied in the Final Rejection. Nowhere on the record has the Examiner suggested that the subject matter of these claims would be allowable over the prior art. The subject matter in pending claims 2, 7, 9, 12-14, and 16 has been addressed and rejected under 103 in papers #7 and #5. In each instance, Applicant has unsuccessfully argued to overcome these rejections.

Should Applicant amend the pending claims to overcome the 112 2nd issues, the Examiner will respond with an art rejection similar to one set forth in paragraphs 4-5 of paper #7 and paragraphs 11-12 of paper #5.

Finally, it should be noted that claims 5 and 11 remain rejected for the reasons set forth in paragraph 7 of paper #9 (Final Rejection).



Robert Dawson
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Technology Center 1700